

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**WILLIAM BRANDON CUMMINGS**

**Plaintiff,**

**v.**

**SGT. SMITH, *et al.***

**Defendants.**

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**CIVIL ACTION NO. 09-0335**

**ORDER**

**AND NOW**, this 21st day of December 2012, upon consideration of the Motion to Dismiss of Defendant, Sgt. Robert Smith, to which no response has been filed, and for the reasons stated in the accompanying memorandum opinion, it is hereby **ORDERED** that:

1. The Motion is **GRANTED**.
2. The claim relating to verbal harassment is **DISMISSED with prejudice**.
3. The claims relating to the destruction or removal of legal papers and the spraying of mace are **DISMISSED without prejudice**.
4. Plaintiff may file an amended complaint in accordance with the Court's memorandum opinion no later than January 15, 2013.
5. The Clerk is directed to **CLOSE** the case.

It is so **ORDERED**.

**BY THE COURT:**

**/s/ Cynthia M. Rufe**

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**CYNTHIA M. RUFÉ, J.**